

EXHIBIT A

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF ARIZONA
3 * * * * *
4
5 In Re Bard IVC Filters Products
6 Liability Litigation
7 No. MD-15-02641-PHX-DGC
8
9 * * * * *
10 DO NOT DISCLOSE - SUBJECT TO FURTHER
11 CONFIDENTIALITY REVIEW
12
13 VIDEOTAPED DEPOSITION OF JOSHUA RIEBE, MD
14
15 TAKEN AT: Radisson Hotel
16 LOCATED AT: 2040 Airport Drive
17 Green Bay, WI
18
19 April 4, 2017
20 10:09 a.m. to 2:15 p.m.
21 REPORTED BY ANITA K. FOSS
22 REGISTERED PROFESSIONAL REPORTER
23
24
25 * * * * *

1 A. Yes.

2 Q. Okay. Now, in bold, there's also
3 something that's in the middle of the page. And
4 what does that say?

5 A. "Movement or migration is a known
6 complication of vena cava filters. This may be
7 caused by placement in IVCs with diameters
8 exceeding 28 millimeters."

9 Q. But do you see anything in that statement
10 that indicates that Bard's Recovery filter has
11 higher rates of migration, perforation, and/or
12 deaths than other filters on the market?

13 A. No.

14 MS. DAVIS: Objection to the form.

15 (Exhibit 927 marked for identification.)

16 BY MR. GOLDENBERG:

17 Q. I want to go back to the last paragraph
18 that we just read. Do you see anything in there
19 that warns doctors that if a patient would show up
20 in the ER and they pump a patient full of fluids,
21 then all the vessels, including the vena cava, are
22 going to grow?

23 A. No.

24 MS. DAVIS: Objection to the form.

25 BY MR. GOLDENBERG:

1 Q. And if the vena cava grows to over
2 28 millimeters, that that's going to be a problem
3 that could lead to filter migration. Do you see
4 them warning about that?

5 A. No.

6 MS. DAVIS: Objection to the form.

7 BY MR. GOLDENBERG:

8 Q. I'm showing you Exhibit 927. I'll
9 represent to you, again, that this is an e-mail
10 from Robert Carr to Jason Greer, and then from
11 Mr. Greer to Janet Hudnall, etcetera, regarding
12 bariatric patient and filters. Do you see that?

13 A. Yes.

14 Q. And again, the date is May 27, 2004?

15 A. Yes.

16 Q. Okay. I'm going to direct you to the
17 middle of the page. And if you could read that
18 sentence where it says "when."

19 A. "When the patient shows up in the ER,
20 they pump the patient full of fluids. Then all the
21 vessels, including the vena cava, are going to
22 grow. If the vena cava grows over 28 millimeters,
23 I don't care what filter is in the patient, there
24 easily could be a filter migration."

25 Q. Were you ever told that by anybody at

1 Bard, or anybody, before you implanted the IVC into
2 my client in April of '05?

3 A. No.

4 MS. DAVIS: Lack of foundation, objection
5 to form as to questions related to Exhibit 927.

6 MR. GOLDENBERG: You know, I think that
7 might be a nice time to just take a break.

8 THE WITNESS: Thank you.

9 MR. GOLDENBERG: Thanks.

10 THE VIDEOGRAPHER: Going off the record.
11 End of disc one. The time is 11:39.

12 (Break taken.)

13 THE VIDEOGRAPHER: We are back on the
14 record with the start of disc number two. The time
15 is 11:45.

16 BY MR. GOLDENBERG:

17 Q. Okay. Doctor, we just had a little
18 break. Are you ready to go again?

19 A. Yes.

20 Q. Thank you. I think we talked before
21 about an IFU, which is called an instruction for
22 use. And I think you indicated that you don't
23 really recall seeing it, or if you did, you don't
24 recall what it said; correct?

25 A. Correct.

1 MS. DAVIS: Objection to form.

2 THE WITNESS: I don't recall the patient
3 or any words I might have had with that patient.

4 BY MR. GOLDENBERG:

5 Q. Okay. In fact, you didn't know that at
6 that time; correct?

7 MS. DAVIS: Objection to form.

8 THE WITNESS: Know what, sir?

9 BY MR. GOLDENBERG:

10 Q. You did not know --

11 MS. DAVIS: Lack of foundation. Sorry.

12 BY MR. GOLDENBERG:

13 Q. You did not know at that time that a
14 person that was a larger person could have a vena
15 cava that could expand far beyond 28 millimeters;
16 correct?

17 A. Not specifically, no.

18 Q. Okay.

19 MS. DAVIS: Same objection.

20 BY MR. GOLDENBERG:

21 Q. All right. Let's go back to the first
22 page. We're almost done. Under Findings, could
23 you read us your findings?

24 A. "Patent and compressible right common
25 femoral vein under ultrasound guidance. Cava is

1 rather prominent in transverse diameter.
2 Calculation was made based off of vertebral body
3 correlation from CT scan chest. This estimated
4 that the cava was between 28 and 29 millimeters,
5 which was at the upper limits of cava size for
6 Recovery filter. This was deployed carefully and
7 set well with the filter, demonstrating good
8 position at the conclusion of the procedure."

9 Q. So clearly this was a cava that was at
10 the edge of the upper limits of cava size for a
11 Recovery; correct?

12 A. My measurements indicate that, yes.

13 Q. And again, how did you measure this
14 again?

15 A. Well, obviously I can't remember exactly
16 what I did on that day in 2005. However, the
17 documentation suggests that I was having difficulty
18 with the x-ray imaging that we take during the
19 exam, so I had to go to a reference CT scan to get
20 my best estimate of the overall size, and I used
21 that information off of a previous CT scan.

22 Q. All right.

23 A. There's a high degree of magnification
24 when you're using an x-ray. And larger patients,
25 you have to bring the equipment further away from

1 what you're imaging, so magnification and changes
2 in measurements is -- you have a lot of difficulty
3 with that.

4 Q. Okay. It says, "This was deployed
5 carefully and set well, with the filter
6 demonstrating good position." Does that mean that
7 it was centered the way that we talked about
8 earlier?

9 A. According to my record, yes.

10 MS. DAVIS: Objection to form.

11 BY MR. GOLDENBERG:

12 Q. Okay. It says -- were there any
13 complications at all with the procedure?

14 A. It says none.

15 Q. Okay. And then what was your impression
16 at that time then?

17 A. My impression was that the procedure went
18 well and the filter was in good position.

19 Q. Okay. In fact it says, "Technically
20 successful placement of infrarenal inferior vena
21 cava Bard Recovery filter without immediate
22 complication"; correct?

23 A. Yes.

24 Q. Then do you follow up to just make sure
25 that the filter is in good position with some kind

1 of follow-up scan?

2 A. Typically, no.

3 Q. Okay. Did that happen in this case?

4 A. It looks like a scan was done
5 subsequently. The clinical indication, however,
6 was not for routine reasons.

7 Q. Okay. It sounds like the patient might
8 have been having some back pain; is that correct?

9 A. Yes.

10 Q. If we turn to the record, which, again,
11 is MDR0081 at the bottom, it looks like there's an
12 admission date at that time -- I'm getting confused
13 on the date here. Just a minute. Oh, okay. So
14 this is -- this occurred, again, looks like on 5/8;
15 is that correct?

16 A. Yes.

17 Q. Okay. So this would be the next day?

18 A. Yes.

19 Q. All right. And so there was a CT scan of
20 the abdomen and pelvis?

21 A. Yes.

22 Q. All right. And then that was compared
23 with the IVC filter placement from 5/7/05?

24 A. Yes.

25 Q. All right. And what were the clinical

1 indications at that time?

2 A. "After filter placement, increasing right
3 back pain."

4 Q. All right. And did you find anything to
5 indicate that the -- the vena cava wasn't in good
6 position?

7 A. My impression was that the inferior vena
8 cava filter is in good position with no
9 retroperineal or groin hematoma identified.

10 Q. Okay. So it was still in the same
11 position you left it?

12 A. Correct.

13 Q. All right. And then if we go to the next
14 page, it looks like then a lumbar -- so this -- the
15 previous scan on 58 was actually a scan of the
16 abdomen and pelvis; correct?

17 A. Correct.

18 Q. And then the next day, it looks like they
19 did a CT of the lumbar spine, so the low back;
20 right?

21 A. Correct.

22 Q. All right. And that says "CT lumbar
23 spine, routine"?

24 A. Yes.

25 Q. All right. And then can you tell me, it

1 says, "Comparison is made with MRI of lumbar spine
2 from 5/7 and 5/8"; correct?

3 A. Yes.

4 Q. So you were actually able to compare all
5 three scans?

6 A. Apparently, yes.

7 Q. Okay. And what were your findings?

8 A. You want me to read the findings?

9 Q. I do.

10 A. "Sagittal reconstructed images show that
11 the lumbar spine alignment is normal. Schmorl's
12 node is demonstrated inferiorly at L3. I do not
13 see acute fracture or compression deformity. There
14 is no high-grade central stenosis; no high-grade
15 narrow -- foraminal narrowing is appreciated. An
16 inferior vena cava filter is seen. A few of the
17 tines are adjacent to the anterior aspect of the
18 prevertebral portion of the lumbar spine."

19 Q. Is that significant at all, that a few of
20 the tines were adjacent to the anterior aspect of
21 the lumbar spine?

22 A. I don't understand the question.

23 Q. Is there any clinical significance to
24 that?

25 A. Unknown.

1 Q. Okay. And what was your impression at
2 that time?

3 A. "No fracture or malalignment, no
4 high-grade central stenosis or neuroforaminal
5 narrowing. Number two: Caval filter is in good
6 position and similar position to pre -- prior
7 exams. There have been reports of pain due to
8 caval filter. There are also reports of
9 improvement in pain after filter removal.

10 "It is my understanding that this
11 retrieval filter is going to be removed after the
12 patient's coagulopathy was better understood.
13 Please let the interventional radiology staff know
14 when this filter can be removed."

15 Q. So let's break that down a little bit.
16 Did you still find that the filter was in good
17 position?

18 A. Yes.

19 Q. Okay. And it was in the same position as
20 it was on the other scans; correct?

21 A. Yes.

22 Q. Okay. So you did not see any reason, for
23 example, to go back in and take it out or do
24 something else; correct?

25 A. Correct.